

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JOHN DOE III,

Plaintiff,

COMPLAINT

-against-

ARCHDIOCESE OF NEW YORK and OUR LADY OF
MOUNT CARMEL SCHOOL,

Index No. _____

Defendants.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, JOHN DOE III, by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

INTRODUCTION

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted by Rudy Tremaroli, a coach/janitor and serial pedophile formerly employed by the Archdiocese of New York and Our Lady of Mount Carmel School in the Bronx, New York.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, JOHN DOE III, is a citizen and resident of the State of New York. Plaintiff brings this Complaint anonymously because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, Archdiocese of New York is a religious institution and organization with principal offices located at 1011 First Ave., New York, NY 10022. The Archdiocese of New York controls all Catholic religious, pastoral and educational functions in the boroughs of Manhattan, the Bronx and Staten Island, and in other counties in the greater New York metropolitan area. The Archdiocese operates and controls approximately 370 parishes, 274 schools and 90 Catholic charities. The Archdiocese is a citizen and resident of the State of New York.

3. Defendant, Our Lady of Mount Carmel School ("Our Lady of Mount Carmel"), operates the Our Lady of Mount Carmel School, a Catholic school located at 2465 Bathgate Avenue, Bronx, New York 10458.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York.

6. Venue of this action lies in New York County and a substantial part of the events or omissions giving rise to the claim occurred in New York County or one of the Defendants resides in New York County.

RUDY TREMAROLI'S SEXUAL ASSAULTS OF PLAINTIFF

7. Plaintiff was a student at the Our Lady of Mount Carmel School, a Catholic school located in the Bronx, New York between approximately 1983 and 1992.

8. Rudy Tremaroli was a janitor employed by the Archdiocese of New York and Our Lady of Mount Carmel School. He was also an assistant coach for of the Our Lady of Mount Carmel middle school basketball team.

9. Rudy Tremaroli sexually assaulted Plaintiff on multiple occasions, beginning in approximately 1989 when Plaintiff was in the fifth grade.

10. The acts of sexual assault committed by Rudy Tremaroli included, but not limited to the fondling of Plaintiff's genitals, forcing Plaintiff to fondle genitals, sodomizing Plaintiff, and taking nude photographs of Plaintiff.

11. The acts of sexual abuse committed by Rudy Tremaroli occurred on the Our Lady of Mount Carmel premises.

NOTICE – FORESEEABILITY

12. Upon information and belief, Rudy Tremaroli was at all relevant times a serial sexual predator who sexually abused multiple boys during his employment by the Archdiocese of New York and Our Lady of Mount Carmel School.

13. Upon information and belief, the administration, principal and pastor of Our Lady of Mount Carmel School knew or should have known that Rudy Tremaroli was sexually assaulting boys on the premises of Our Lady of Mount Carmel School.

14. Upon information and belief, the principal of Our Lady of Mount Carmel School, John Irwin, received nude photographs of Rudy Tremaroli's victims. John Irwin was arrested in 2000 for possession of child pornography.

15. Upon information and belief, Our Lady of Mount Carmel School Monsignor John Ruvo and other school employees and/or agents removed and destroyed nude photographs of Rudy Tremaroli's victims from Rudy Tremaroli's home.

16. At all relevant times, the Archdiocese and Our Lady of Mount Carmel School knew or in the exercise of reasonable care should have known that Rudy Tremaroli had a propensity for the conduct which caused injury to Plaintiff, particularly that he had a propensity to engage in the sexual abuse of children.

17. At all relevant times, it was reasonably foreseeable to the Archdiocese and Our Lady of Mount Carmel School that Rudy Tremaroli would commit acts of child sexual abuse or assault on a child.

18. At all relevant times, the Archdiocese and Our Lady of Mount Carmel School knew or should have known that Rudy Tremaroli was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

19. With such actual or constructive knowledge, the Archdiocese and Our Lady of Mount Carmel School provided Rudy Tremaroli unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

DUTY

20. At all material times, Our Lady of Mount Carmel School and Plaintiff were in a special relationship of school – student, in which Our Lady of Mount Carmel School owed Plaintiff a duty of reasonable care to protect him from foreseeable harm.

21. At all material times, Our Lady of Mount Carmel School and Rudy Tremaroli were in a special relationship of employer-employee, in which Our Lady of Mount Carmel School owed a duty to control the acts and conduct of Rudy Tremaroli to prevent foreseeable harm.

22. Our Lady of Mount Carmel School owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of Our Lady of Mount Carmel School. Our Lady of Mount Carmel School's duties encompassed using reasonable care in the retention, supervision and hiring of Rudy Tremaroli and the duty to otherwise provide a safe environment for Plaintiff.

23. Our Lady of Mount Carmel School had a duty to exercise reasonable care in the training of teachers and staff in the prevention of sexual abuse and protection of the safety of students in its care.

24. Our Lady of Mount Carmel School had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the students in its care.

25. At all material times the Archdiocese, as principal, and Our Lady of Mount Carmel School, as agent, were in an agency relationship, such that Our Lady of Mount Carmel School acted on the Archdiocese's behalf, in accordance with the Archdiocese's instructions and directions on all matters, including those relating to the hiring of school personnel. The acts and omissions of Our Lady of Mount Carmel School were subject to the Archdiocese's plenary control, and Our Lady of Mount Carmel School consented to act subject to the Archdiocese's control.

26. At all material times, the Archdiocese and Plaintiff were in a special relationship of school-student, in which the Archdiocese owed Plaintiff a duty of reasonable care to prevent foreseeable harm.

27. At all material times, the Archdiocese and Rudy Tremaroli were in a special relationship of employer – employee, in which the Archdiocese owed a duty to control the acts and conduct of Rudy Tremaroli to prevent foreseeable harm.

28. The Archdiocese owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of the Archdiocese. The Archdiocese's duties encompassed using reasonable care in the retention, supervision and hiring of Rudy Tremaroli and the duty to otherwise provide a safe environment for Plaintiff.

BREACH

29. Defendants breached their duties by (i) failing to protect Plaintiff from sexual assault and lewd and lascivious acts committed by their agent and employee; (ii) failing to establish policies and procedures that were adequate to protect the health, safety and welfare of students and

protect them from sexual abuse; (iii) failing to implement and enforce policies and procedures that were adequate to protect the health, safety and welfare of students and protect them from sexual abuse; (iv) hiring, retaining and/or failing to supervise Rudy Tremaroli when it knew or should have known that he posed a substantial risk of harm to children; and (v) failing to adequately monitor and supervise students on the premises of Our Lady of Mount Carmel School.

30. At all relevant times, Defendants had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

31. Defendants concealed their knowledge that Rudy Tremaroli was unsafe and failed to adopt policies and procedures that would protect children and reduce the risk of child sexual abuse by their employees.

32. Defendants failed to warn Plaintiff and similarly situated individuals that they were at risk of sexual abuse.

NATURE OF CONDUCT ALLEGED

33. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53); and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

34. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendants acted with reckless disregard for the safety

of others, including Plaintiff, or knowingly or intentionally, in concert with Rudy Tremaroli, to permit Rudy Tremaroli's unfettered access to children.

COUNT I - NEGLIGENCE
(against Defendant Archdiocese of New York)

35. Plaintiff repeats and realleges Paragraphs 1 through 34 above.

36. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

37. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of JOHN DOE III and other children.

COUNT II - NEGLIGENCE
(against Defendant Our Lady of Mount Carmel)

38. Plaintiff repeats and realleges Paragraphs 1 through 34 above.

39. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

40. Defendant's acts and conduct showed a reckless or willful disregard for the safety and well-being of JOHN DOE III and other children.

WHEREFORE, Plaintiff demands Judgment against Defendants for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a Jury Trial in this action.

Dated: New York, New York
November 8, 2019

Respectfully submitted,

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